

The 17th November, 1994

No. 14/13/87-6 Lab./834.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Faridabad in respect of the dispute between the workman and the management of M/s Goodyear India Ltd, Ballabgarh *versus* Ram Beer :—

IN THE COURT OF SHRI U. B. KHANDUJA, PRESIDING OFFICER, LABOUR COURT-II,
FARIDABAD.

Ref. No. 85/91.

THE MANAGEMENT OF M/S GOODYEAR INDIA LTD., BALLABGARH (FARIDABAD)

versus

THE WORKMAN NAMELY SHRI RAM BEER S/O SHRI SINGH RAJ, VILLAGE REHRANA,
POST OFFICE PALWAL, DISTT. FARIDABAD

Present .

Sh. M. S. Nagar, AR for the workman.

Sh. A. S. Chatha, AR for the management.

AWARD

Rambeer, S/o Sh. Singh Raj was employed with M/s Government India Ltd., Ballabgarh. His services were terminated. On dispute raised by him the Haryana Government has referred the matter to this court on the question whether the termination of services of Rambeer was legal and justified and if not, to what relief he is entitled.

2. Briefly stated the case of the workman is that he was engaged by the management of the aforesaid company, in March 1987 and had served there till October, 1987. His services were terminated in October, 1987, without prior notice and so he had made request for his reinstatement. His request was accepted and he had rejoined duty in September, 1988. He had been working honestly and obediently till September, 1989. The management however, again terminated his services on account of his union activities. He was not served with any charge-sheet. Many workers junior to him were retained. Thus, the termination of his service is illegal and he is entitled to be reinstated into service with full back wages.

3. The management submitted written statement dated 18th December, 1991 stating therein that the workman was appointed on casual basis in the year 1987 and had worked from March, 1987 to 4th November, 1987 for about 161 days. In the year 1988 he did not work at all with them. He had again approached them for being given a casual employment and so was appointed on 23rd February, 1989. He had worked upto 30th September, 1989 for a total period of 179 days. He had not worked with them for a continuous period of 240 days and as such he was not entitled to retrenchment compensation.

4. The workman submitted rejoinder dated 26th February, 1992 re-asserting the previous averments and denying the averments of the management.

5. On the pleadings of the parties the following issues were framed :—

1. Whether the termination of services of Sh. Rambeer is legal and justified ? If not, to what relief, is he entitled to (As per reference) ?

2. Relief.

6. Both the sides have led evidence.

7. I have heard the authorised representatives of both the sides and have also gone through the file carefully. My findings on the aforesaid issues are as under :—

Issue No. 1:

8. MW-1 P.K. Misra, Manager Employment of the respondent company, deposed facts mentioned above. He also placed on record documents Ex. M-1 application dated 22th February, 1989 submitted by the

workman seeking employment, Ex. M-2 ESI temporary identification certificate dated 23rd February, 1998, Ex. M-3 certified standings order of the company, Ex. M-4 summary of attendance of the workman for the year 1989, Ex. M-5 summary of working days of the workman, Ex. M-6 to Ex. M-15 photostat copies of wages slip of the workman for the period from March, 1987 to November, 1987, Ex. M-16 to Ex. M-23 photostat copies of pay slips of the workman for the period from February, 1989 to September, 1989, Ex. M-24 photostat copy of earning record of casual employees for the year 1988, Ex. M-25 photostat copy of earning record of casual employees Ex. M-26, copy of application dated 22nd December, 1984 of one Tilak Raj, Ex. M-27 appointment letter dated 7th January, 1985 in respect of Tilak Raj and Ex. M-28 confirmation letter dated 6th December, 1985 of Tilak Raj.

9. On the other hand the workman examined himself on oath and stated the facts mentioned in his demand notice. He also placed on record photostat copies of his pay slips Ex. W-1 Ex. W-13 pertaining to 7th March, 1987, May, 1987, July, 1987, September 1987 and February, 1987 to October, 1989, Ex-W-14 photostat copy of gate pass and Ex. W-16 a list of employees.

10. It is clear from the evidence led by both the sides mentioned above that the workman had, firstly worked with the management from March, 1987 to 4th November, 1987 and then from 23rd February, 1989 to 30th September, 1989. The dispute is only about the period from 5th November, 1987 to 22nd February, 1989. It is the case of the management that the workman had not worked with them during this period and to prove this fact they produced record with regard to the payment of wages for the year 1988. They have also placed on record summary of attendance register Ex. M-4 and copy of earning record of casual employees for the year 1988 and 1989. On the other hand, the workman clearly stated his cross examination that he was not having any documentary proof to prove that he had worked with the management during this period. The workman has placed on file several copies wages slip referred to above issued to him by the company. He has not produced any wage slip pertaining to the disputed period. A copy of the wage slip for the month of February, 1989 Ex. W-6 produced by the workman supports the contention of the management that he had worked only for a period of 5 days during this month. The workman has not indicated any reason as why he had not worked during the period from 1st February, 1989 to 22nd February, 1989 if he was in the employment of the management w. e. f. September, 1988. A copy of the application dated 22nd February, 1989 Ex. M-1 produced by management also shows that the workman was appointed fresh on 23rd February, 1989. ESI identification certificate Ex. M-2 also support this position. In this situation no implicit reliance can be placed on the bold oral statement of the workman that he had been working with the management during the period from September, 1988 to 22nd February, 1989. It is thus, concluded that the workman had not been in the employment of the management during the period from 5th November, 1987 to 22nd February, 1989.

11. It emerge from the position discussed above that the workman had worked as a casual worker as per job requirement for 161 days during the year 1987 and 179 days during the year 1989. He had not worked for a continuous period of 240 days in 12 calendar months prior to the date of termination of his services. The management was thus, not required to follow the provision of Section 25-F of the Act. Consequently, it is held that the termination of services of the workman by the management is legal and justified. Consequently, the workman is not entitled to any relief. Issue No. 1 is decided in favour of the management and against the workman.

Issue No. 2:

12. In view of my findings on Issue No. 1 above, it is held that the termination of services of the workman by the management is legal and justified. Consequently, the workman is not entitled to any relief. The award is passed accordingly.

The 21st October, 1994.

U. B. KHANDUJA,

Presiding Officer,
Labour Court-II,
Faridabad.

Endorsement No. 3042, dated the 26th October, 1994.

A copy, with three spare copies, is forwarded to the Financial Commissioner & Secretary to Government Haryana, Labour Department, Chandigarh.

U. B. KHANDUJA,

Presiding Officer,
Labour Court-II,
Faridabad.